

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE HEARTLAND PAYMENT)
SYSTEMS, INC. DATA SECURITY)
BREACH LITIGATION) CIVIL ACTION NO. H-09-MD-02046

THIS DOCUMENT RELATES TO:)
FINANCIAL INSTITUTION TRACK)
ACTIONS)

)

**DEFENDANT HEARTLAND PAYMENT SYSTEMS, INC.'S MOTION TO DISMISS
THE FINANCIAL INSTITUTIONS' MASTER COMPLAINT**

Defendant Heartland Payment Systems, Inc. ("Heartland") respectfully moves that the Court dismiss the Master Complaint in the Financial Institution Track pursuant to Fed. R. Civ. P. 12(b)(6), for the reasons set forth in the accompanying Memorandum of Law filed herewith.

WHEREFORE, Heartland respectfully requests that this Court enter an order dismissing the Financial Institution Track action in its entirety.

Respectfully submitted,

/s Neal S. Manne

Neal S. Manne
nmanne@susmangodfrey.com
State Bar No. 12937980
S.D. Adm. No. 10209
Erica W. Harris
eharris@susmangodfrey.com
State Bar No. 00797697
S.D. Adm. No. 20784
David M. Peterson
dpeterson@susmangodfrey.com
State Bar No. 24056123
S.D. Adm. No. 882360
SUSMAN GODFREY L.L.P.

1000 Louisiana Street, Suite 5100
Houston, Texas 77002-5096
Telephone: (713) 651-9366
Fax: (713) 654-6666

Harvey J. Wolkoff
harvey.wolkoff@ropesgray.com
MA State Bar No. 532880
Douglas H. Meal
douglas.meal@ropesgray.com
MA State Bar No. 340971
Mark P. Szpak
mark.szpak@ropesgray.com
MA State Bar No. 546261
Anne E. Johnson
anne.johnson@ropesgray.com
MA State Bar No. 666361
ROPES & GRAY LLP
One International Place
Boston, MA 02110-2624
(617) 951-7000 (telephone)
(617) 951-7050 (facsimile)

Attorneys for Heartland Payment Systems, Inc.

Dated: October 23, 2009

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record, who are deemed to have consented to electronic service are being served this 23rd day of October 2009 with a copy of this document via the Court's CM/ECF system per the Local Rules.

/s Neal S. Manne

Neal S. Manne